

REMARKS

The following is intended as a full and complete response to the Office Action mailed on November 13, 2003. Claims 1-37 were examined. The Examiner rejected claims 1, 2, and 15 under 35 U.S.C. § 103(a) as unpatentable over Yoon (U.S. Pat. No. 6,292,291) in view of Cspikes. The Examiner rejected claims 3-5, 10, 31, 35, and 36 under 35 U.S.C. § 103(a) as unpatentable over Yoon in view of Cspikes and in view of Bekcer ("Erbium-Doped Fiber Amplifiers Fundamentals and Technology.") The Examiner rejected claims 4, 6, and 7 under 35 U.S.C. § 103(a) as unpatentable over Yoon in view of Cspikes and further in view of Ohshima (U.S. Pat. App. No. 2001/0008459.) The Examiner rejected 8 and 9 under 35 U.S.C. § 103(a) as unpatentable over Yoon in view of Cspikes and further in view of Bekcer. Finally, the Examiner objected to claims 11-14, 16-18, and 32-34.

Drawings

In amended Figures 1-13, various descriptions have been added to the various figures to reflect the changes that the Examiner and Applicant agreed to on February 10, 2003. Replacement sheets for Figures 1-13 are attached hereto. None of the changes made to the figures adds new matter to the application.

Rejections

Yoon has a U.S. filing date of November 24, 1999 and claims priority under 35 U.S.C §119 only to Korean Application No. 98-50473, filed November 24, 1998. Yoon does not constitute prior art under 35 USC §102(e) because Applicant's filing date precedes Yoon's U.S. filing date of November 24, 1999, the critical date for §102(e) purposes. (See MPEP 706.02(f)(1)(II)(Example 3): "For reference publications and patents of patent applications filed under 35 U.S.C. §111(a), the prior art dates under 35 U.S.C. §102(e) accorded to these references

are the earliest effective U.S. filing dates. No benefit of the filing date of the foreign application is given under 35 U.S.C. §102(e) for prior art purposes (In re Hilmer, 149 USPQ 480 (CCPA 1966)). Thus, a publication and patent of a 35 U.S.C. §111(a) application, which claims benefit under 35 U.S.C. §119(a)-(d) to a prior foreign-filed application (or under 35 U.S.C. §365(a) to an international application), would be accorded its U.S. filing date as its prior art date under 35 U.S.C. §102(e).”) Thus, Yoon should be accorded a date under 35 U.S.C. §102(e) of November 24, 1999, not November 24, 1998. Further, Applicant believes that Yoon does not qualify as prior art under any other provision of 35 U.S.C. §102.

All of the Examiner’s rejections rely on Yoon as an integral part. Therefore, Applicant submits that claims 1-37 are in condition for allowance, as the Examiner found prior to the submission of Yoon in the IDS, dated June 5, 2003.

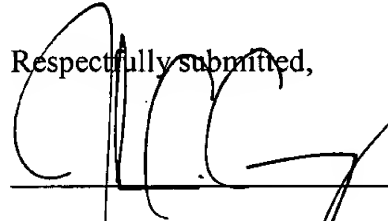
Petition to Correct Filing Date

The Office’s listed filing date of November 22, 1999 is incorrect. Applicant is filing a petition contemporaneously with this Response to correct the filing date to September 1, 1999. Attached for your information is a copy of this petition.

Conclusion

Based on the above remarks, Applicant believes that he has overcome all of the rejections set forth in the Office Action mailed November 13, 2003, and that the pending claims are in condition for allowance. If the Examiner has any questions, please contact the Applicant's undersigned representative at the number provided below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Carey', is written over a horizontal line.

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